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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
Commissioner-Chairman
RENZ D. JENNINGS
Commissioner
CARL J. KUNASEK
Commissioner

IN THE MATTER OF:

FOREX INVESTMENT SERVICES
CORPORATION
2700 North Central Avenue, Suite 1110
Phoenix, Arizona 85004

et al.,

Respondents.

DOCKET NO. S-3177-I

MOTION TO WITHDRAW AS COUNSEL
FOR RESPONDENT JAMES CHARLES
SIMMONS, JR.

Pursuant to A.A.C. R14-3-104(E), undersigned counsel move to withdraw from the representation of Respondent James Charles Simmons, Jr. ("Mr. Simmons") in the above matter. A review of the hearing exhibits and discovery recently provided by the Securities Division has revealed an irreconcilable conflict between the potential defenses asserted on behalf of Mr. Simmons and those that would be raised on behalf of the remaining Respondents.

Pursuant to ER 1.7(b), Rule 42, Rules of the Supreme Court for the State of Arizona, undersigned counsel believe it is inappropriate to continue to represent Mr. Simmons because counsel's representation of him would be materially limited by counsel's responsibilities to the remaining Respondents. The newly disclosed evidence shows that Mr. Simmons will put forth a defense that will be directly adverse to the interests of the other Respondents. Accordingly, ER 1.16(a)(1) requires that counsel withdraw from its representation of Mr. Simmons. Counsel, therefore, ask that the Commission grant this Motion.

1 Undersigned counsel avow that they have advised Mr. Simmons of the prehearing conference
2 scheduled for today at 2:00 p.m., and also that the hearing is presently scheduled for July 27, 1998 at
3 9:30 a.m. at 1200 West Washington in Phoenix, Arizona.

4 DATED this 15th day of July, 1998.

5
6 SIRIANNI & YOUTZ

7
8 By 

9 Chris R. Youtz
10 3410 Columbia Center
11 710 Fifth Avenue
12 Seattle, Washington 98104-7032
13 Counsel for Respondents

14 and

15 ROSHKA HEYMAN & DEWULF, PLC

16 By 

17 Paul J. Roshka, Jr.
18 Alan S. Baskin
19 Two Arizona Center
20 4 00 North 5th Street, Suite 1000
21 Phoenix, Arizona 85004
22 Counsel for Respondents

23 ORIGINAL and ten copies of the
24 foregoing hand-delivered
25 this 15th day of July, 1998 to:

26 Docket Control
27 Arizona Corporation Commission
 1200 West Washington Street
 Phoenix, Arizona 85007

1 COPY of the foregoing hand-delivered
2 this 15th day of July, 1998 to:

3 Mark C. Knops
4 Senior Counsel
5 Securities Division
6 Arizona Corporation Commission
7 1300 West Washington, 3rd Floor
8 Phoenix, Arizona 85007

9 Hearing Officer
10 Hearing Division
11 Arizona Corporation Commission
12 1200 West Washington
13 Phoenix, Arizona 85007

14 COPY of the foregoing mailed
15 this 15th day of July, 1998 to:

16 James Charles Simmons, Jr.
17 5045 North 58th Avenue, #23A
18 Glendale, Arizona 85301

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20 roshka/tokyo/pl motion to withdraw.doc